

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

V.

FISHER INDUSTRIES, FISHER SAND
AND GRAVEL CO., AND NEUHAUS &
SONS, LLC.,

Defendants.

CASE NO.

**OPPOSED MOTION FOR ENTRY OF AMENDED TEMPORARY RESTRAINING
ORDER**

Plaintiff United States of America, having filed its Complaint, seeking, *inter alia*, a temporary restraining order, preliminary injunction and other equitable relief in this matter, and having moved for an Emergency Temporary Restraining Order (Docket No. 5) and other relief under Rule 65 of the Federal Rules of Civil Procedure, and the Court, having considered the Complaint, and motion and affidavits filed in support and having heard arguments of counsel for the parties for and against the requested relief and having entered a Temporary Restraining Order on December 5, 2019 (Docket No. 7), held a status conference on December 12, 2019, and after hearing argument from the parties, instructed the parties to file an agreed amended temporary restraining order.

The United States, through undersigned counsel, submitted a proposed amended order to the Defendants prior to 5:00 p.m. on December 12, 2019. Counsel for the Fisher Defendants noted an error in the wording in the amended order proposed by the United States and requested that the error be corrected. The United States, through undersigned counsel,

made the requested correction and emailed a corrected version of the proposed amended temporary restraining order to Defendants on December 13, 2019 at 7:43 a.m. Counsel for Defendant Neuhaus & Sons, LLC agreed to the language proposed by the United States at 9:57 a.m. The United States and counsel for the Fisher Defendants agreed that a hearing for preliminary injunction is needed and also agreed to hold the preliminary injunction hearing on December 20, 2019, subject to approval of

the Court. The United States received the proposed edits from the Fisher Defendants to its proposed amended temporary restraining order on December 13, 2019 at 4:33 p.m. The edits proposed by the Fisher Defendants removed all the amended language proposed by the United States under paragraph 8 except for the word “grading” in paragraph 8(b).

Pursuant to the request of the Court, the United States made the LiDAR information, discussed at the status hearing held on December 12, 2019, available to the Fisher Defendants on December 13, 2019.

At this time, the United States and the Fisher Defendants are unable to agree to the wording in an amended temporary restraining order. The Fisher Defendants are opposed to the entry of the attached amended temporary restraining order proposed by the United States.

WHERFORE, the United States hereby files this opposed motion for the entry of an amended temporary restraining order and requests that the Court grant the attached amended temporary restraining order and further set this matter for a preliminary injunction hearing on December 20, 2019.

Respectfully submitted,

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